

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DANIEL DAVID WARREN
16404 Avenida Venusto, #E
San Diego, CA 92128

Certified Public Accountant
Certificate No. 44362

Respondent.

Case No. AC-2010-21

OAH No. 2010120280

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on Aug-27, 2011.

It is so ORDERED July 28, 2011.



FOR THE CALIFORNIA BOARD OF
ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

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2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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Attorneys for Complainant

8
9 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **DANIEL DAVID WARREN**
13 **16404 Avenida Venusto, #E**
14 **San Diego, CA 92128**

15 **Certified Public Accountant**
16 **Certificate No. 44362**

Respondent.

Case No. AC-2010-21

OAH No. 2010120280

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of
22 Accountancy. She brought this action solely in her official capacity and is represented in this
23 matter by Kamala D. Harris, Attorney General of the State of California, by Carl W. Sonne,
24 Deputy Attorney General.

25 2. Respondent Daniel David Warren (Respondent) is represented in this proceeding by
26 attorney Stephanie Perkins, whose address is: Chapman Glucksman Dean Roeb & Barger, 7509
27 Madison Avenue, Suite 112, Citrus Heights, CA 95610.
28

3. On or about December 6, 1985, the California Board of Accountancy issued Certified Public Accountant Certificate No. 44362 to Daniel David Warren (Respondent). The Certified Public Accountant Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. AC-2010-21 and will expire on March 31, 2012, unless renewed.

JURISDICTION

4. Accusation No. AC-2010-21 was filed before the California Board of Accountancy (CBA), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 1, 2010. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2010-21 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. AC-2010-21. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. AC-2010-21.

4 9. Respondent agrees that his Certified Public Accountant Certificate is subject to
5 discipline and he agrees to be bound by the CBA's probationary terms as set forth in the
6 Disciplinary Order below.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the California Board of Accountancy.
9 Respondent understands and agrees that counsel for Complainant and the staff of the California
10 Board of Accountancy may communicate directly with the CBA regarding this stipulation and
11 settlement, without notice to or participation by Respondent or his counsel. By signing the
12 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
13 to rescind the stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to
14 adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order
15 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
16 between the parties, and the CBA shall not be disqualified from further action by having
17 considered this matter.

18 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
19 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
20 effect as the originals.

21 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.
27
28

13. In consideration of the foregoing admissions and stipulations, the parties agree that the CBA may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 44362 issued to Respondent Daniel David Warren (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Actual Suspension.** Certified Public Accountant Certificate No. 44362 issued to Daniel David Warren is suspended for one (1) year. During the period of suspension the Respondent shall engage in no activities for which certification as a Certified Public Accountant or Public Accountant is required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

2. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

3. **Submit Written Reports.** Respondent shall submit, within ten (10) days of completion of the quarter, written reports to the CBA on a form obtained from the CBA. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

4. **Personal Appearances.** Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the CBA or its designated representatives, provided such notification is accomplished in a timely manner.

5. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the CBA and shall cooperate fully with representatives of the Board of Accountancy in its monitoring and investigation of the Respondent's compliance with probation terms and conditions.

1 6. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice
2 investigation of the Respondent's professional practice. Such a practice investigation shall be
3 conducted by representatives of the CBA, provided notification of such review is accomplished in
4 a timely manner.

5 7. **Comply With Citations.** Respondent shall comply with all final orders resulting
6 from citations issued by the Board of Accountancy.

7 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
8 Respondent should leave California to reside or practice outside this state, Respondent must
9 notify the CBA in writing of the dates of departure and return. Periods of non-California
10 residency or practice outside the state shall not apply to reduction of the probationary period, or
11 of any suspension. No obligation imposed herein, including requirements to file written reports,
12 reimburse the CBA costs, or make restitution to consumers, shall be suspended or otherwise
13 affected by such periods of out-of-state residency or practice except at the written direction of the
14 CBA.

15 9. **Violation of Probation.** If Respondent violates probation in any respect, the CBA,
16 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry
17 out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is
18 filed against Respondent during probation, the CBA shall have continuing jurisdiction until the
19 matter is final, and the period of probation shall be extended until the matter is final.

20 10. **Completion of Probation.** Upon successful completion of probation, Respondent's
21 license will be fully restored.

22 11. **Active License Status.** Respondent shall at all times maintain an active license
23 status with the CBA, including during any period of suspension. If the license is expired at the
24 time the CBA's decision becomes effective, the license must be renewed within 30 days of the
25 effective date of the decision.

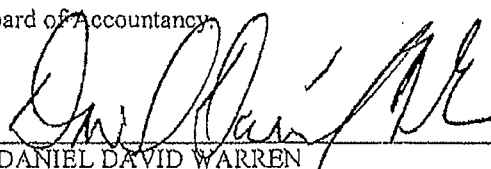
26 12. **Cost Reimbursement.** Respondent shall reimburse the CBA \$9,700.05 for its
27 investigation and prosecution costs. The payment shall be made within six (6) months of the date
28 the CBA's decision is final. Alternatively, Respondent may pay pursuant to a payment plan

1 presented to and accepted by the CBA.

2 ACCEPTANCE

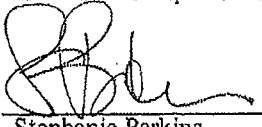
3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Stephanie Perkins. I understand the stipulation and the effect it
5 will have on my Certified Public Accountant Certificate. I enter into this Stipulated Settlement
6 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
7 Decision and Order of the California Board of Accountancy.

8
9 DATED: 7-11-2011


10 DANIEL DAVID WARREN
11 Respondent

12 I have read and fully discussed with Respondent Daniel David Warren the terms and
13 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
14 I approve its form and content.

15 DATED: 7-13-11


16 Stephanie Perkins
17 Attorney for Respondent

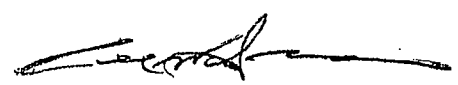
18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the California Board of Accountancy of the Department of
21 Consumer Affairs.

22 Dated: July 13, 2011

Respectfully submitted,

23 KAMALA D. HARRIS
24 Attorney General of California
25 JAMES M. LEDAKIS
26 Supervising Deputy Attorney General


27 CARL W. SONNE
28 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. AC-2010-21

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 CARL W. SONNE
Deputy Attorney General
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10 **STATE OF CALIFORNIA**
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12
13 In the Matter of the Accusation Against:

14 **DANIEL DAVID WARREN**
14955 Avenida Venusto, #2
15 San Diego, CA 92128

16 **Certified Public Accountant Certificate No.**
44362

17 Respondent.
18

Case No. AC-2010-21

ACCUSATION

19
20 Complainant alleges:

21 **PARTIES**

- 22 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
23 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.
24 2. On or about December 6, 1985, the California Board of Accountancy issued Certified
25 Public Accountant Certificate Number 44362 to Daniel David Warren (Respondent). The
26 Certified Public Accountant Certificate was in full force and effect at all times relevant to the
27 charges brought herein and will expire on March 31, 2012, unless renewed.
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4. Section 5100 states:

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The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license.

6. Section 5063(b)(2) of the Code states:

(2) Any civil action settlement or arbitration award against the licensee relating to the practice of public accountancy where the amount or value of the settlement or arbitration award is thirty thousand dollars (\$30,000) or greater and where the licensee is not insured for the full amount of the award.

1 7. Title 11 of the United States Code section 727(a) provides in part:

2 (a) The court shall grant the debtor a discharge, unless -

3

4 (2) the debtor, with intent to hinder, delay, or defraud a creditor or an
5 officer of the estate charged with custody of property under this title, has
6 transferred, removed, destroyed, mutilated, or concealed, or has permitted to be
7 transferred, removed, destroyed, mutilated, or concealed -

8 (A) property of the debtor, within one year before the date of the
9 filing of the petition; or

10

11 (4) the debtor knowingly and fraudulently, in or in connection with the
12 case -

13 (A) made a false oath or account;

14

15 COST RECOVERY

16 8. Section 5107 of the Code provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licensee found to have committed a violation or violations of
18 the licensing act to pay to the Board the reasonable costs of the investigation and prosecution of
19 the case, including but not limited to attorneys' fees.

20 FIRST CAUSE FOR DISCIPLINE

21 (Knowing Preparation, Publication, or Dissemination of False, Fraudulent, or Materially
22 Misleading Financial Statements, Reports or Other Information)

23 9. Respondent is subject to disciplinary action under section 5100(j) of the Code for
24 knowingly preparing, publicizing, or disseminating false, fraudulent, or materially misleading
25 financial statements, reports or other information. The circumstances are as follows:

26 10. On October 30, 2008, Respondent reported to the Board pursuant to section
27 5063(b)(2) of the Code, a civil action settlement entered on October 2, 2008 and an Order and
28 Judgment arising out of related Bankruptcy proceedings prior to the civil settlement. The facts
and circumstances surrounding the civil action settlement and Order and Judgment are as follows:

1 11. In or around 1998, A.M. and Z.M. became business associates of Respondent and
2 Respondent's wife. After a falling out, on or about September 26, 2002, A.M. and Z.M. filed suit
3 against Respondent and his wife in Pennsylvania state court, asserting various claims including
4 fraud, conversion, and breach of contract. In October 2002, Respondent and his wife filed suit on
5 behalf of the business, against A.M. and Z.M. in federal court in California. A.M. and Z.M.
6 voluntarily dismissed their complaint in Pennsylvania, choosing instead to assert their claims as
7 third-party claims against Respondent and his wife in the California federal litigation. On March
8 16, 2004, approximately four months before the trial in the California federal litigation was set to
9 begin, the parties attended a settlement conference. During the settlement conference, it became
10 apparent that Respondent and his wife did not think they would be able to fund the trial, and they
11 became frustrated because A.M. and Z.M. refused to accept a settlement offer. Two days later,
12 on or about March 18 and then again on March 23, Respondent and his wife met with bankruptcy
13 counsel.

14 12. On April 22, 2004, Respondent and his wife filed a petition for bankruptcy under
15 Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court, District of Utah. On or
16 about May 7, 2004, Respondent and his wife filed the Statement of Financial Affairs and
17 supporting schedules which correspond to the petition for bankruptcy. Prior to and in anticipation
18 of filing the petition for bankruptcy, Respondent and his wife generated approximately \$90,000 in
19 cash by selling many of their assets, then utilized the funds to purchase exempt assets and prepay
20 future living expenses. Upon completion of all the pre-bankruptcy transactions, Respondent and
21 his wife had no substantial realizable assets that could be liquidated to repay their over 6,000
22 creditors. When Respondent and his wife filed their bankruptcy paperwork, they did not list some
23 of the sales and expenditures, and only added some of the omitted transactions after it was
24 discovered by A.M. and Z.M.

25 13. Because the filings indicated that Respondent and his wife had essentially no assets
26 available for creditors, A.M. and Z.M. filed a complaint to prevent Respondent and his wife from
27 obtaining a discharge in bankruptcy on the grounds that they had transferred and concealed
28 property to "hinder, delay or defraud" creditors under 11 U.S.C. section 727(a)(2)(a) and that they

1 had "made a false oath or account" in the bankruptcy proceeding under section 11 U.S.C. section
2 727(a)(4)(A). On March 28, 2005, the bankruptcy court issued a judgment denying the discharge
3 on both grounds and issued a 39 page Memorandum Decision outlining the court's findings.
4 Following its analysis of Respondent's asset sales and transactions (including a coin collection),
5 as well as, purchases, prepayments, and other transactions, the court concluded that evidence was
6 found "in support of fraudulent intent" on the part of Respondent. The court found that the
7 plaintiffs, A.M. and Z.M., had met their burden of proof, in showing that "(1) the debtor
8 transferred, removed, concealed, destroyed, or mutilated, (2) property of the estate, (3) within one
9 year prior to the bankruptcy filing, (4) with the intent to hinder, delay or defraud a creditor."

10 14. The court also found that Respondent and his wife "ha[d] abused pre-bankruptcy
11 planning because their purpose was to place assets out of reach" of the plaintiffs. In reaching its
12 decision, the court stated that Respondent's pattern of dealings was "entirely consistent with a
13 scheme to liquidate each and every asset, no matter the loss, to prevent payments" to the
14 plaintiffs. The court found that Respondent's omissions were "intentional and designed to
15 defraud" the plaintiffs, that the omissions were "knowingly and fraudulently made," and that the
16 omissions were material. The court made specific credibility findings about Respondent,
17 including: he was "generally evasive, coy, and lacking in credibility;" "he was attempting to
18 word-smith his answers to avoid being caught in a deception;" and "[t]o state that [Respondent] is
19 evasive is to understate his conduct on the stand." The court "reject[ed] the excuse that the
20 Warrens were too busy, did not understand, were forgetful, or simply were inadvertently mistaken
21 in their answers." Instead, the court concluded that they were attempting to use up all their assets
22 so the [creditors] . . . would receive nothing, and they were intending to hide transactions in their
23 bankruptcy papers." The court also noted that "[m]any of the badges of fraud have been proven,
24 and [their] explanation of their conduct [was] not credible."

25 15. Respondent and his wife appealed to the Tenth Circuit Bankruptcy Appellate Panel
26 (BAP), which affirmed the denial of discharge under 11 U.S.C. section 727(a)(2) and concluded
27 that "the bankruptcy judge was within her discretion in finding there was sufficient evidence of
28 the requisite number of badges of fraud to justify denial of both of the Warrens' discharges."

1 Respondent and his wife then appealed to the Tenth Circuit United States Court of Appeals,
2 which affirmed the BAP, finding that the bankruptcy court could properly find that Respondent
3 and his wife had engaged in a variety of unreported or otherwise deceitful transactions whose
4 overriding purpose was to prevent plaintiffs from recovering any money from the Respondent's
5 bankruptcy estate. Respondent and his wife then filed an application for an extension of time to
6 file a writ of certiorari for a hearing of the Appellate Court's decision in the United States
7 Supreme Court. Their application was denied by the U.S. Supreme Court on or about April 29,
8 2008.

9 16. On October 2, 2008, Respondent and his wife entered into a confidential Settlement
10 and Release Agreement with A.M. and Z.M., wherein they agreed to pay A.M. and Z.M. a
11 substantial amount of money. Under the terms of the settlement, the former partners stated that
12 their complaints were unrelated to acts of public accountancy.

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Revocation of a Certificate or Other Authority to Practice as CPA by any Other State)

15 17. Respondent is subject to disciplinary action under section 5100(d) of the Code in
16 that effective March 26, 2009, Respondent's license to practice as a certified public accountant
17 was revoked by the Texas Board of Accountancy. The facts and circumstances are that on or
18 about March 26, 2009, the Texas Board of Accountancy entered Board Order, Complaint No. 09-
19 02-02L against Respondent, wherein the Texas Board ratified and adopted the Agreed Consent
20 Order for license revocation. The Agreed Consent Order, Complaint No. 09-02-02L dated March
21 26, 2009 stated that the conclusions of law were based primarily on the U.S. Bankruptcy Court's
22 denial of the licensee's bankruptcy petition following an adversary proceeding that Respondent
23 had defrauded his creditors. On or about April 9, 2009, Respondent reported to the Board
24 pursuant to section 5063(b)(2) of the code, that his Texas CPA license number 039493 was
25 revoked by the Texas Board of Accountancy.

PRAYER

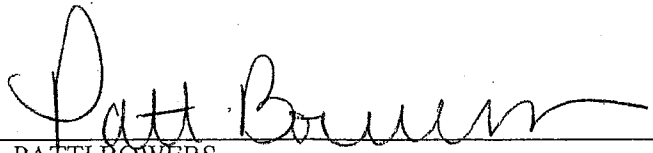
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

1. Revoking or suspending or otherwise imposing discipline upon Certified Public Accountant Certificate Number 44362, issued to Daniel David Warren;

2. Ordering Daniel David Warren to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107;

3. Taking such other and further action as deemed necessary and proper.

DATED: 9/14/2010



PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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